IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
Civil Transfer Application No. 07 of 2005

Smt. Sarla Devi, W/o Late Sri Surendra Prakash, Resident of Village Raipur, Pargana Parwadoon, District Dehradun.

....Petitioner

Vs

Smt. Urmila Devi, W/o Late Sri Virendra Prakash, R/o Village Raipur, Ranjhawala, Post Office Khas, District Dehradun.

....Respondent

Sri S.S. Chauhan, learned counsel for the petitioner.
None present for the respondent.

Hon'ble B.S. Verma, J.

Heard Sri S.S. Chauhan, learned counsel for the petitioner.

Grounds shown for restoration of the case are sufficient.

Restoration application is allowed.

The order dated 15-6-2007 is recalled and the Civil Transfer application is restored to its original number along with interim order dated 1-8-2005.

The present Civil Transfer application has been filed by the applicant with a prayer to transfer the Original Suit No. 109 of 1998 Smt. Sarla Devi and others Vs. Virendra Prakash, pending in the Court of Civil Judge (Senior Division)/IIIrd Fast Track Court, Dehradun to District Haridwar or any other adjacent District, having same jurisdiction.

The Civil Transfer application has been moved mainly on the ground that the applicant is a widow of 70 years of age and is suffering with several old age ailments on account of her old age. Further, the applicant was being harassed and tortured by the defendant, by adjourning the original suit time to time and the applicant was compelled to file a writ petition No.251 (M/S) of 2005 Smt. Sarla Devi Vs. Civil Judge (Senior Division), Dehradun and another in which the order was passed by the court on 22-3-2005 directing the trial court to decide the case within a period of six months from today.

The respondent has one daughter Smt. Sushma Devi, who is married to Prabhakar Sharma and he is posted as Civil Court Amin in Judgeship, Dehradun under the control of Civil Judge. The same Mr. Sharma is effecting the trial. The trial court had granted the temporary injunction in favour of respondent in original suit filed on behalf of applicant.

The applicant is in apprehension that she will be deprived to get the justice from the Court of Law, on account of influence of Mr. Prabhakar Sharma, who is presently posted, as Civil Court Amin and the purpose of applicant for filing the suit will be frustrated.

It is pertinent to mention here that the no allegation was made against the Presiding Officer, only allegation was made against the Civil Court Amin, who had no role in deciding the case and no where it was stated that the Presiding Officer of the Court has some relation with the Civil Court Amin.

The allegation made in the application is baseless. The petitioner herself filed the petition for expeditious disposal of the Suit and she herself filed present transfer application and prayed for stay the proceedings of Original Suit No./109 of 1998 Smt. Sarla Devi and others Vs. Virendra Prakash.

In view of the aforesaid fact that, the Civil Transfer Application is devoid of merit and is hereby dismissed. Interim order passed by this Court on 1-8-2005 is hereby vacated.

The Trial Court is directed to proceed with the suit and decide the suit expeditiously as early as possible.

All applications stands disposed of accordingly.

(B.S. Verma, J.)

Dated: - 29-6-2007
M.K.